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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,640	09/08/2006	Kazuhiro Nakamura	13425.70U/SWO	6367
52835 7590 10/01/2010 HAMRE, SCHUMANN, MUELLER & LARSON, P.C. P.O. BOX 2902 MINNEAPOLIS, MN 55402-0902				
EXAMINER HICKS, ROBERT J				
ART UNIT		PAPER NUMBER		
3781				
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10/01/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,640

Applicant(s)

NAKAMURA ET AL.

Examiner

ROBERT J. HICKS

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species.
 - a. Species I, drawn to Figures 1a - 4c.
 - b. Species II, drawn to Figures 5a and 5b.
 - c. Species III, drawn to Figures 6a, 6b, and 7.
 - d. Species IV, drawn to Figure 8.
 - e. Species V, drawn to Figures 9 – 11b.
 - f. Species VI, drawn to Figures 12 – 14b.
 - g. Species VII, drawn to Figures 15-19.
 - h. Species VIII, drawn to Figures 20-22b.
2. The species are independent or distinct because each of the species mentioned above have a different design to the invention. The species have structural features among each other, which would require different fields of search to find the claimed invention. In addition, these species are not obvious variants of each other based on the current record.

Species I and II are directed to related products. In the instant case, the inventions as claimed have different designs. Species I requires a cover member with a plurality of bolts on the exterior portion of the annular member, while Species II requires a thread formed on the outer or inner cylindrical surface of the annular member. These are two different ways to form a seal between the container and the cover.

Species I and III are directed to related products. In the instant case, the inventions as claimed have different designs. Species I requires a cover member with a plurality of bolts on the exterior portion of the annular member, while Species III requires an outer rib and inner rib structure in which the seal is formed between the outer rib and inner rib. These are two different ways to form a seal between the container and the cover.

Species I and IV are directed to related products. In the instant case, the inventions as claimed have different designs. Species I requires a cover member with a plurality of bolts on the exterior portion of the annular member, while Species IV requires an outer rib projection and a seal guide working together to form a seal. These are two different ways to form a seal between the container and the cover.

Species I and V are directed to related products. In the instant case, the inventions as claimed have different designs. Species I requires a cover member with a plurality of bolts on the exterior portion of the annular member, while Species V requires a metal ring that helps form a portion of the seal between the cover and the container. These are two different ways to form a seal between the container and the cover.

Species I and VI are directed to related products. In the instant case, the inventions as claimed have different designs. Species I requires a cover member with a plurality of bolts on the exterior portion of the annular member, while Species VI requires the retainer to have a spring tension to help form a seal. These are two different ways to form a seal between the container and the cover.

Species I and VII are directed to related products. In the instant case, the inventions as claimed have different designs. Species I requires a cover member with a plurality of bolts on the exterior portion of the annular member, while Species VII requires a space to allow for thermal contraction.

Species I and VIII are directed to related products. In the instant case, the inventions as claimed have different designs. Species I requires a cover member with a plurality of bolts on the exterior portion of the annular member, while Species VIII requires a through hole to allow for space on the side of the retainer for the annular member to communicate with the outside.

Species II and III are directed to related products. In the instant case, the inventions as claimed have different designs. Species II requires a thread formed on the outer or inner cylindrical surface of the annular member, while Species III requires an outer rib and inner rib structure in which the seal is formed between the outer rib and inner rib. These are two different ways to form a seal between the container and the cover.

Species II and IV are directed to related products. In the instant case, the inventions as claimed have different designs. Species II requires a thread formed on the outer or inner cylindrical surface of the annular member, while Species IV requires an outer rib projection and a seal guide working together to form a seal. These are two different ways to form a seal between the container and the cover.

Species II and V are directed to related products. In the instant case, the inventions as claimed have different designs. Species II requires a thread formed on

the outer or inner cylindrical surface of the annular member, while Species V requires a metal ring that helps form a portion of the seal between the cover and the container.

These are two different ways to form a seal between the container and the cover.

Species II and VI are directed to related products. In the instant case, the inventions as claimed have different designs. Species II requires a thread formed on the outer or inner cylindrical surface of the annular member, while Species VI requires the retainer to have a spring tension to help form a seal. These are two different ways to form a seal between the container and the cover.

Species II and VII are directed to related products. In the instant case, the inventions as claimed have different designs. Species II requires a thread formed on the outer or inner cylindrical surface of the annular member, while Species VII requires a space to allow for thermal contraction.

Species II and VIII are directed to related products. In the instant case, the inventions as claimed have different designs. Species II requires a thread formed on the outer or inner cylindrical surface of the annular member, while Species VIII requires a through hole to allow for space on the side of the retainer for the annular member to communicate with the outside.

Species III and IV are directed to related products. In the instant case, the inventions as claimed have different designs. Species III requires an outer rib and inner rib structure in which the seal is formed between the outer rib and inner rib, while Species IV requires an outer rib projection and a seal guide working together to form a seal. These are two different ways to form a seal between the container and the cover.

Species III and V are directed to related products. In the instant case, the inventions as claimed have different designs. Species III requires an outer rib and inner rib structure in which the seal is formed between the outer rib and inner rib, while Species V requires a metal ring that helps form a portion of the seal between the cover and the container. These are two different ways to form a seal between the container and the cover.

Species III and VI are directed to related products. In the instant case, the inventions as claimed have different designs. Species III requires an outer rib and inner rib structure in which the seal is formed between the outer rib and inner rib, while Species VI requires the retainer to have a spring tension to help form a seal. These are two different ways to form a seal between the container and the cover.

Species III and VII are directed to related products. In the instant case, the inventions as claimed have different designs. Species III requires an outer rib and inner rib structure in which the seal is formed between the outer rib and inner rib, while Species VII requires a space to allow for thermal contraction.

Species III and VIII are directed to related products. In the instant case, the inventions as claimed have different designs. Species III requires an outer rib and inner rib structure in which the seal is formed between the outer rib and inner rib, while Species VIII requires a through hole to allow for space on the side of the retainer for the annular member to communicate with the outside.

Species IV and V are directed to related products. In the instant case, the inventions as claimed have different designs. Species IV requires an outer rib

projection and a seal guide working together to form a seal, while Species V requires a metal ring that helps form a portion of the seal between the cover and the container.

These are two different ways to form a seal between the container and the cover.

Species IV and VI are directed to related products. In the instant case, the inventions as claimed have different designs. Species IV requires an outer rib projection and a seal guide working together to form a seal, while Species VI requires the retainer to have a spring tension to help form a seal. These are two different ways to form a seal between the container and the cover.

Species IV and VII are directed to related products. In the instant case, the inventions as claimed have different designs. Species IV requires an outer rib projection and a seal guide working together to form a seal, while Species VII requires a space to allow for thermal contraction.

Species IV and VIII are directed to related products. In the instant case, the inventions as claimed have different designs. Species IV requires an outer rib projection and a seal guide working together to form a seal, while Species VIII requires a through hole to allow for space on the side of the retainer for the annular member to communicate with the outside.

Species V and VI are directed to related products. In the instant case, the inventions as claimed have different designs. Species V requires a metal ring that helps form a portion of the seal between the cover and the container, while Species VI requires the retainer to have a spring tension to help form a seal. These are two different ways to form a seal between the container and the cover.

Species V and VII are directed to related products. In the instant case, the inventions as claimed have different designs. Species V requires a metal ring that helps form a portion of the seal between the cover and the container, while Species VII requires a space to allow for thermal contraction.

Species V and VIII are directed to related products. In the instant case, the inventions as claimed have different designs. Species V requires a metal ring that helps form a portion of the seal between the cover and the container, while Species VIII requires a through hole to allow for space on the side of the retainer for the annular member to communicate with the outside.

Species VI and VII are directed to related products. In the instant case, the inventions as claimed have different designs. Species VI requires the retainer to have a spring tension to help form a seal, while Species VII requires a space to allow for thermal contraction.

Species VI and VIII are directed to related products. In the instant case, the inventions as claimed have different designs. Species VI requires the retainer to have a spring tension to help form a seal, while Species VIII requires a through hole to allow for space on the side of the retainer for the annular member to communicate with the outside.

Species VII and VIII are directed to related products. In the instant case, the inventions as claimed have different designs. Species VII requires a space to allow for thermal contraction, while Species VIII requires a through hole to allow for space on the side of the retainer for the annular member to communicate with the outside.

The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, or a single grouping of patentably indistinct species, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-4 appear to be generic.

There is a search and/or examination burden for the patentably distinct species as set forth above because at least the following reason(s) apply: the inventions have acquired a separate status in the art in view of their different classification, and the inventions require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search strategies or search queries).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or a grouping of patentably indistinct species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species or grouping of patentably indistinct species, including any claims subsequently added. An argument

that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species or grouping of patentably indistinct species.

Should applicant traverse on the ground that the species, or groupings of patentably indistinct species from which election is required, are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing them to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. HICKS whose telephone number is (571)270-1893. The examiner can normally be reached on Monday-Friday, 8:30 AM - 5:00 PM, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert J Hicks/
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art
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